UNITED STAES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:14-cv-498-MOC

ALEKSANDR S. MYALIK,)
)
)
Plaintiff,)
)
v.)
) ORDER
)
ANDREW SAUL,)
Commissioner of Social Security,)
)
Defendant.)
)

THIS MATTER is before the Court on Plaintiff's unopposed Motion for Attorney Fees. (Doc. No. 26).

I. BACKGROUND AND DISCUSSION

Plaintiff filed a civil action in this Court for review of the agency decision denying benefits under the Social Security Act, and this Court entered judgment for Plaintiff with remand for further proceedings. On remand, Plaintiff's claim was granted. See 42 U.S.C. § 405(g). On remand, Plaintiff was awarded at least \$95,160.00 in past due benefits, and 25% of that has been withheld for payment of attorney's fees. This matter now is before the Court on Plaintiff's motion for attorney's fees filed on October 7, 2020, under the Social Security Act, 42 U.S.C. § 406(b).

Plaintiff has entered into a fee agreement which provides for a reasonable fee for services in court as determined by the court, not to exceed 25% of the past due benefits. The maximum fee the Court may award under 42 U.S.C. § 406(b) is \$23,790.00. Plaintiff states that fees in the

amount of \$7,500.00 have been approved, but not yet received, for services performed before the Social Security Administration. Plaintiff requests approval of a fee in the amount of \$16,290.00. Plaintiff has received court-awarded attorney's fees under the Equal Access to Justice Act in the amount of \$5,000.00. Where fees are awarded under both the EAJA and the Social Security Act for the same work, the attorney will, as required, refund the smaller of the two fees received to

ORDER

Upon review of the materials submitted to the Court, the undersigned finds that Plaintiff counsel's request for attorney fees is reasonable, and Plaintiff's Motion for Attorney Fees, (Doc. No. 26), is therefore **GRANTED**. Therefore, Plaintiff's attorney may collect a fee of \$16,290.00, to be paid out of Plaintiff's past-due benefits. Counsel shall refund to Plaintiff the lesser of the EAJA fee of \$5,000.00 that counsel received due to the Court's previous award or the fee received pursuant to this motion.

IT IS SO ORDERED.

Signed: November 2, 2020

the claimant.

United States District Judge